

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Isaac Lagnado

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Examiner: Brandon J. Miller

Docket No.: 200313247-1

For: System And Method For Accessing A Wireless Network

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed February 12, 2009, responding to the Final Office Action mailed January 6, 2009.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required are hereby authorized to be charged to Deposit Account No. 08-2025.

I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 1 – 3, 5 – 16, 18 – 21, 23 – 27, 29 – 37, 39 – 52, and 54 – 60 stand finally rejected. Claims 4, 17, 22, 28, 38, and 53 have been canceled. No claims have been allowed. The final rejections of claims 1 – 3, 5 – 16, 18 – 21, 23 – 27, 29 – 37, 39 – 52, and 54 – 60 are appealed.

IV. Status of Amendments

No amendments have been made or requested since the mailing of the Final Office Action and all amendments submitted prior to the Final Office Action have been entered. The claims in the attached Claims Appendix reflect the present state of the pending claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description ("specification") and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Embodiments of claim 1 include a method for accessing a wireless network (FIG. 2 and page 4, line 4), comprising: detecting at least one wireless network (FIG. 1A, element 16) within which a wireless device (FIG. 1A, element 12) is located while the wireless device (FIG. 1A, element 12) is in a transmit off mode (page 4, line 20 and FIG. 2A, element 36); and determining whether the at least one wireless network (FIG. 1A, element 16) is on a list of requested wireless networks (page 4, line 21 and FIG. 2A, element 38); and in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode (page 5, line 8 and FIG. 2A, elements 42 and 46).

Embodiments of claim 16 include a method for accessing a wireless network (FIG. 1A, element 16), comprising: automatically switching a wireless device (FIG. 1A, element 12) to a transmit off mode in response to activation of the wireless device (page 4, line 7 and FIG. 2A, element 34); detecting at least one wireless network (FIG. 1A, element 16) within which said wireless device (FIG. 1A, element 12) is located while the wireless device (FIG. 1A, element 12) is in the transmit off mode (page 4, line 20 and FIG. 2A, element 36); determining whether the at least one wireless network (FIG. 1A, element 16) is on a list of requested wireless networks (page 4, line 21 and FIG. 2A, element 38); and in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode (page 5, line 8 and FIG. 2A, elements 42 and 46).

Embodiments of claim 26 include a system for accessing a wireless network (FIG. 1A, element 16), comprising: a wireless device (FIG. 1A, element 12); and application logic (page 9, line 4) operatively associated with the wireless device (FIG. 1A, element 12) and adapted to: switch the wireless device (FIG. 1A, element 12) to a transmit off mode (page 4, line 7 and FIG. 2A, element 34); detect at least one wireless network within which the wireless device (FIG. 1A, element 12) is located while in the transmit off mode (page 4, line 20 and FIG. 2A, element 36); determine whether the at least one wireless network (FIG. 1A, element 16) is on a predetermined list of requested wireless networks (page 4, line 21 and FIG. 2A, element 38); and in response to a determination that the at least one wireless network (FIG. 1A, element 16) is on the list of requested wireless networks (FIG. 1A, element 16), switching the wireless device (FIG. 1A, element 12) from the transmit off mode to a transmit on mode (page 5, line 8 and FIG. 2A, elements 42 and 46).

Embodiments of claim 37 include a system for accessing a wireless network (FIG. 1A, element 16), comprising: means for switching a wireless device (FIG. 1A, element 12) to a transmit off mode (page 9, line 3; page 4, line 7; and FIG. 2A, element 34); means for detecting at least one wireless network (FIG. 1A, element 16) within which the wireless device (FIG. 1A, element 12) is located while in the transmit off mode (page 4, line 20 and FIG. 2A, element 36); means for determining whether the at least one wireless network (FIG. 1A, element 16) is on a predetermined list of requested wireless networks (page 4, line 21 and FIG. 2A, element 38); and means for, in response to a determination that the at least one wireless network (FIG. 1A, element 16) is on the list of requested wireless networks (FIG. 1A, element 16), switching the wireless device (FIG. 1A, element 12) from the transmit off mode to a transmit on mode (page 5, line 8 and FIG. 2A, elements 42 and 46).

Embodiments of claim 43 include a system for accessing a wireless network (FIG. 1A, element 16), comprising: a wireless device (FIG. 1A, element 12); and application logic (page 9, line 4) operatively associated with the wireless device (FIG. 1A, element 12), the application logic adapted to selectively switch the wireless device (FIG. 1A, element 12) between a transmit on mode and a transmit off mode based on an identification of at least one wireless network (page 4, line 7; FIG. 2A, element 34; and FIG. 1A, element 16), the application further configured to determine whether the at least one wireless network (FIG. 1A, element 16) is on a list of requested wireless networks (page 4, line 21 and FIG. 2A, element 38), the application logic further configured to, in response to a determination that the at least one wireless network (FIG. 1A, element 16) is on the list of requested wireless networks (FIG. 1A, element 16), switch the wireless device (FIG. 1A, element 12) from the transmit off mode to the transmit on mode (page 5, line 8 and FIG. 2A, elements 42 and 46).

Embodiments of claim 52 include a method for accessing a wireless network (FIG. 1A, element 16), comprising: automatically detecting at least one wireless network (FIG. 1A, element 16) within which a wireless device (FIG. 1A, element 12) is located while the wireless device (FIG. 1A, element 12) is on and in a transmit off mode (FIG. 1A, element 16); determining whether the at least one wireless network (FIG. 1A, element 16) is on the list of requested wireless networks (page 4, line 21 and FIG. 2A, element 38); and in response to a determination that the at least one wireless network (FIG. 1A, element 16) is on the list of requested wireless networks (FIG. 1A, element 16), switching the wireless device (FIG. 1A, element 12) from the transmit off mode to a transmit on mode (page 5, line 8 and FIG. 2A, elements 42 and 46).

Embodiments of claim 57 include a system for accessing a wireless network (FIG. 1A, element 16), comprising: a wireless device (FIG. 1A, element 12); and application logic operatively associated with the wireless device (FIG. 1A, element 12)

and adapted to automatically detect at least one wireless network (FIG. 1A, element 16) within which the wireless device (FIG. 1A, element 12) is located while the wireless device (FIG. 1A, element 12) is on and in a transmit off mode, the application logic further configured to determine whether the at least one wireless network (FIG. 1A, element 16) is on the list of requested wireless networks (page 4, line 21 and FIG. 2A, element 38), the application logic further configured to, in response to a determination that the at least one wireless network (FIG. 1A, element 16) is on the list of requested wireless networks (FIG. 1A, element 16), switch the wireless device (FIG. 1A, element 12) from the transmit off mode to a transmit on mode (page 5, line 8 and FIG. 2A, elements 42 and 46).

VI. Grounds of Rejection to be Reviewed on Appeal

The following grounds of rejections are to be reviewed on appeal:

Claims 1 – 3, 5 – 11, 15, 26 – 27, 29 – 34, 36 – 37, 39 – 40, 42 – 48, 51 – 52, and 54 – 60 stand rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*").

Claims 12 – 14, 35, 41, and 49 stand rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*") and U.S. Patent Publication Number 2004/0003285 ("*Whelan*").

Claims 16, 18 – 21, 23, 25, and 50 stand rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Number 7,076,256 ("*Orler*") and U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*").

Claim 24 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Number 7,076,256 ("*Orler*"), U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"), and U.S. Patent Publication Number 2004/0003285 ("*Whelan*").

Claim 45 stands rejected under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*") and U.S. Patent Publication Number 2004/0153676 ("*Krantz*").

VII. Arguments

Appellant respectfully submits that claims 1 – 3, 5 – 16, 18 – 21, 23 – 27, 29 – 37, 39 – 52, and 54 – 60 are patentable under 35 U.S.C. §103. Appellant respectfully requests that the Board of Patent Appeals overturn the final rejection of those claims at least for the reasons discussed below.

A. The Cited References

1. The Sundar Reference

Sundar discloses "internetworking a mobile station to operate in a WWAN environment and in a WLAN environment" (Abstract).

2. The Nurminen Reference

Nurminen discloses a "wireless communications device controls its operational characteristics by receiving operational information across a short-range wireless network, and setting an operational characteristic of the device based on the received operational information" (Abstract).

3. **The Whelan Reference**

Whelan discloses a "monitor [that] checks the reported devices against a list of authorized network devices. If the reported wireless device is not an authorized device, the monitor determines if the reported device is connected to the network" (Abstract).

4. **The Orler Reference**

Orler discloses a "cellular telephone for use with a cellular telephone network includes a GPS receiver section" (Abstract).

5. **The Krantz Reference**

Krantz discloses "managing power consumption in a portable computing device having a network interface module is presented" (Abstract).

B. **Rejections Under 35 U.S.C. §103**

1. **Claims 1 – 3, 5 – 11, 15, 26 – 27, 29 – 34, 36 – 37, 39 – 40, 42 – 48, 51 – 52, and 54 – 60 are Allowable over *Sundar* in view of *Nurminen***

a. **Claim 1 is Allowable over *Sundar* in view of *Nurminen***

Claim 1 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Nurminen* fails to disclose, teach, or suggest all of the elements of claim 1. More specifically, claim 1 recites:

A method for accessing a wireless network,
comprising:
detecting at least one wireless network within which
a wireless device is located while the wireless device in a
transmit off mode; and

determining whether the at least one wireless network is on a list of requested wireless networks;

determining whether the at least one wireless network is on the list of requested wireless networks; and

in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode.

(Emphasis added).

Appellant respectfully submits that claim 1 is allowable over the cited art for at least the reason that neither *Sundar* nor *Nurminen*, taken alone or in combination, discloses, teaches, or suggests a "method for accessing a wireless network, comprising... ***in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode***" as recited in claim 1. First, the Final Office Action admits that *Sundar* does not specifically teach a transmit off mode; and in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode" (OA page 3, line 19). Second, *Sundar* discloses "[a]s part of the beacon frame or the probe response, the AP sends a SSID... that identifies the AP 204. The mobile station 310 compares this SSID with a list of SSIDs... and if there is a match, infers that the WLAN 200 is a valid network for it to gain access" (page 4, paragraph [0058]). As illustrated in this passage, *Sundar* discloses that a comparison with a list is simply performed to determine that there is a valid network. There is no consequence of a positive result to this comparison. Consequently, there is no suggestion of "***in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode***" as recited in claim 1. Third, *Nurminen* discloses a "[p]ower management configuration [that] may be changed for the device based on its inferred context... This may include, for example, turn on or off its transmitter(s)" (page

7, paragraph [0109]). As illustrated in this passage, *Nurminen* appears to disclose that power management may be changed based on an “inferred context.” There is absolutely no suggestion that a wireless device is switched from the transmit off mode to a transmit on mode “*in response to a determination that the at least one wireless network is on the list of requested wireless networks*” as recited in claim 1. For at least these reasons, claim 1 is allowable.

b. Claim 26 is Allowable over Sundar in view of Nurminen

Claim 26 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 (“*Sundar*”) in view of U.S. Patent Application Publication Number 2005/0136837 (“*Nurminen*”). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Nurminen* fails to disclose, teach, or suggest all of the elements of claim 26. More specifically, claim 26 recites:

A system for accessing a wireless network,
comprising:
a wireless device; and
application logic operatively associated with the
wireless device and adapted to:
switch the wireless device to a transmit off
mode;
detect at least one wireless network within
which the wireless device is located while in the transmit
off mode;
determine whether the at least one wireless
network is on a predetermined list of requested wireless
networks; and
***in response to a determination that the at
least one wireless network is on the list of requested
wireless networks, switching the wireless device from
the transmit off mode to a transmit on mode.***
(*Emphasis added*).

Appellant respectfully submits that claim 26 is allowable over the cited art for at least the reason that neither *Sundar* nor *Nurminen*, taken alone or in combination,

discloses, teaches, or suggests a "system for accessing a wireless network, comprising... ***in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode***" as recited in claim 26. First, the Final Office Action admits that *Sundar* does not specifically teach a transmit off mode; and in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode" (OA page 3, line 19). Second, *Sundar* discloses "[a]s part of the beacon frame or the probe response, the AP sends a SSID... that identifies the AP 204. The mobile station 310 compares this SSID with a list of SSIDs... and if there is a match, infers that the WLAN 200 is a valid network for it to gain access" (page 4, paragraph [0058]). As illustrated in this passage, *Sundar* discloses that a comparison with a list is simply performed to determine that there is a valid network. There is no consequence of a positive result to this comparison. Consequently, there is no suggestion of "***in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode***" as recited in claim 26. Third, *Nurminen* discloses a "[p]ower management configuration [that] may be changed for the device based on its inferred context... This may include, for example, turn on or off its transmitter(s)" (page 7, paragraph [0109]). As illustrated in this passage, *Nurminen* appears to disclose that power management may be changed based on an "inferred context." There is absolutely no suggestion that a wireless device is switched from the transmit off mode to a transmit on mode "***in response to a determination that the at least one wireless network is on the list of requested wireless networks***" as recited in claim 26. For at least these reasons, claim 26 is allowable.

c. **Claim 37 is Allowable over Sundar in view of Nurminen**

Claim 37 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Nurminen* fails to disclose, teach, or suggest all of the elements of claim 37. More specifically, claim 37 recites:

A system for accessing a wireless network,
comprising:

means for switching a wireless device to a transmit
off mode;

means for detecting at least one wireless network
within which the wireless device is located while in the
transmit off mode;

means for determining whether the at least one
wireless network is on a predetermined list of requested
wireless networks; and

***means for, in response to a determination that
the at least one wireless network is on the list of
requested wireless networks, switching the wireless
device from the transmit off mode to a transmit on
mode.***

(Emphasis added).

Appellant respectfully submits that claim 37 is allowable over the cited art for at least the reason that neither *Sundar* nor *Nurminen*, taken alone or in combination, discloses, teaches, or suggests a "system for accessing a wireless network, comprising... ***means for, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode***" as recited in claim 37. First, the Final Office Action admits that *Sundar* does not specifically teach a transmit off mode; and in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode" (OA page 3, line 19). Second, *Sundar*

discloses “[a]s part of the beacon frame or the probe response, the AP sends a SSID... that identifies the AP 204. The mobile station 310 compares this SSID with a list of SSIDs... and if there is a match, infers that the WLAN 200 is a valid network for it to gain access” (page 4, paragraph [0058]). As illustrated in this passage, *Sundar* discloses that a comparison with a list is simply performed to determine that there is a valid network. There is no consequence of a positive result to this comparison. Consequently, there is no suggestion of ***“means for, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode”*** as recited in claim 37. Third, *Nurminen* discloses a “[p]ower management configuration [that] may be changed for the device based on its inferred context... This may include, for example, turn on or off its transmitter(s)” (page 7, paragraph [0109]). As illustrated in this passage, *Nurminen* appears to disclose that power management may be changed based on an “inferred context.” There is absolutely no suggestion that a wireless device is switched from the transmit off mode to a transmit on mode ***“in response to a determination that the at least one wireless network is on the list of requested wireless networks”*** as recited in claim 37. For at least these reasons, claim 37 is allowable.

d. Claim 42 is Allowable over Sundar in view of Nurminen

Claim 42 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 (“*Sundar*”) in view of U.S. Patent Application Publication Number 2005/0136837 (“*Nurminen*”). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Nurminen* fails to disclose, teach, or suggest all of the elements of claim 42. More specifically, claim 42 recites:

A system for accessing a wireless network, comprising:

a wireless device; and

application logic operatively associated with the wireless device, the application logic adapted to selectively switch the wireless device between a transmit on mode and a transmit off mode based on an identification of at least one wireless network, the application further configured to determine whether the at least one wireless network is on a list of requested wireless networks, ***the application logic further configured to, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to the transmit on mode.***

(Emphasis added).

Appellant respectfully submits that claim 42 is allowable over the cited art for at least the reason that neither *Sundar* nor *Nurminen*, taken alone or in combination, discloses, teaches, or suggests a "system for accessing a wireless network, comprising... ***application logic further configured to, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to the transmit on mode***" as recited in claim 42. First, the Final Office Action admits that *Sundar* does not specifically teach a transmit off mode; and in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode" (OA page 3, line 19). Second, *Sundar* discloses "[a]s part of the beacon frame or the probe response, the AP sends a SSID... that identifies the AP 204. The mobile station 310 compares this SSID with a list of SSIDs... and if there is a match, infers that the WLAN 200 is a valid network for it to gain access" (page 4, paragraph [0058]). As illustrated in this passage, *Sundar* discloses that a comparison with a list is simply performed to determine that there is a valid network. There is no consequence of a positive result to this comparison. Consequently, there is no suggestion of "***application***

logic further configured to, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to the transmit on mode" as recited in claim 42.

Third, *Nurminen* discloses a "[p]ower management configuration [that] may be changed for the device based on its inferred context... This may include, for example, turn on or off its transmitter(s)" (page 7, paragraph [0109]). As illustrated in this passage, *Nurminen* appears to disclose that power management may be changed based on an "inferred context." There is absolutely no suggestion that a wireless device is switched from the transmit off mode to a transmit on mode *"in response to a determination that the at least one wireless network is on the list of requested wireless networks"* as recited in claim 42. For at least these reasons, claim 42 is allowable.

e. Claim 52 is Allowable over Sundar in view of Nurminen

Claim 52 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Nurminen* fails to disclose, teach, or suggest all of the elements of claim 52. More specifically, claim 52 recites:

A method for accessing a wireless network,
comprising:

automatically detecting at least one wireless
network within which a wireless device is located while the
wireless device is on and in a transmit off mode;

determining whether the at least one wireless
network is on the list of requested wireless networks; and

***in response to a determination that the at least
one wireless network is on the list of requested
wireless networks, switching the wireless device from
the transmit off mode to a transmit on mode.***

(Emphasis added).

Appellant respectfully submits that claim 52 is allowable over the cited art for at least the reason that neither *Sundar* nor *Nurminen*, taken alone or in combination, discloses, teaches, or suggests a "method for accessing a wireless network, comprising... ***in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode***" as recited in claim 52. First, the Final Office Action admits that *Sundar* does not specifically teach a transmit off mode; and in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode" (OA page 3, line 19). Second, *Sundar* discloses "[a]s part of the beacon frame or the probe response, the AP sends a SSID... that identifies the AP 204. The mobile station 310 compares this SSID with a list of SSIDs... and if there is a match, infers that the WLAN 200 is a valid network for it to gain access" (page 4, paragraph [0058]). As illustrated in this passage, *Sundar* discloses that a comparison with a list is simply performed to determine that there is a valid network. There is no consequence of a positive result to this comparison. Consequently, there is no suggestion of "***in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode***" as recited in claim 52. Third, *Nurminen* discloses a "[p]ower management configuration [that] may be changed for the device based on its inferred context... This may include, for example, turn on or off its transmitter(s)" (page 7, paragraph [0109]). As illustrated in this passage, *Nurminen* appears to disclose that power management may be changed based on an "inferred context." There is absolutely no suggestion that a wireless device is switched from the transmit off mode to a transmit on mode "***in response to a determination that the at least one wireless***

network is on the list of requested wireless networks" as recited in claim 52. For at least these reasons, claim 52 is allowable.

f. **Claim 57 is Allowable over Sundar in view of Nurminen**

Claim 57 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Nurminen* fails to disclose, teach, or suggest all of the elements of claim 57. More specifically, claim 57 recites:

A system for accessing a wireless network,
comprising:
a wireless device; and
application logic operatively associated with the
wireless device and adapted to automatically detect at
least one wireless network within which the wireless device
is located while the wireless device is on and in a transmit
off mode, the application logic further configured to
determine whether the at least one wireless network is on
the list of requested wireless networks, ***the application
logic further configured to, in response to a
determination that the at least one wireless network is
on the list of requested wireless networks, switch the
wireless device from the transmit off mode to a
transmit on mode.***
(Emphasis added).

Appellant respectfully submits that claim 57 is allowable over the cited art for at least the reason that neither *Sundar* nor *Nurminen*, taken alone or in combination, discloses, teaches, or suggests a "system for accessing a wireless network, comprising... ***application logic further configured to, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to a transmit on mode***" as recited in claim 57. First, the Final Office Action admits that

Sundar does not specifically teach a transmit off mode; and in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode" (OA page 3, line 19). Second, *Sundar* discloses "[a]s part of the beacon frame or the probe response, the AP sends a SSID... that identifies the AP 204. The mobile station 310 compares this SSID with a list of SSIDs... and if there is a match, infers that the WLAN 200 is a valid network for it to gain access" (page 4, paragraph [0058]). As illustrated in this passage, *Sundar* discloses that a comparison with a list is simply performed to determine that there is a valid network. There is no consequence of a positive result to this comparison. Consequently, there is no suggestion of "***application logic further configured to, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to a transmit on mode***" as recited in claim 57. Third, *Nurminen* discloses a "[p]ower management configuration [that] may be changed for the device based on its inferred context... This may include, for example, turn on or off its transmitter(s)" (page 7, paragraph [0109]). As illustrated in this passage, *Nurminen* appears to disclose that power management may be changed based on an "inferred context." There is absolutely no suggestion that a wireless device is switched from the transmit off mode to a transmit on mode "***in response to a determination that the at least one wireless network is on the list of requested wireless networks***" as recited in claim 57. For at least these reasons, claim 57 is allowable.

- g. Claims 2 – 3, 5 – 11, 15, 27, 29 – 34, 36, 29 – 40, 44 – 48, 51, 54 – 56, and 58 – 60 are Allowable over *Sundar* in view of *Nurminen*

Claims 2 – 3, 5 – 11, 15, 27, 29 – 34, 36, 39 – 40, 44 – 48, 51, 54 – 56, and 58 – 60 stand rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S.

Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Nurminen* fails to disclose, teach, or suggest all of the elements of claims 2 – 3, 5 – 11, 15, 27, 29 – 34, 36, 39 – 40, 44 – 48, 51, 54 – 56, and 58 – 60. More specifically, dependent claims 2 – 3, 5 – 11, and 15 are believed to be allowable for at least the reason that these claims depend from and include the elements of allowable independent claim 1. Dependent claims 27, 29 – 34, and 36 are believed to be allowable for at least the reason that they depend from and include the elements of allowable independent claim 26. Dependent claims 39 – 40 are believed to be allowable for at least the reason that they depend from and include the elements of allowable independent claim 37. Dependent claims 44 – 48 and 51 are believed to be allowable for at least the reason that they depend from and include the elements of allowable independent claim 42. Dependent claims 54 – 56 are believed to be allowable for at least the reason that they depend from and include the elements of allowable independent claim 52. Dependent claims 58 – 60 are believed to be allowable for at least the reason that they depend from and include the elements of allowable independent claim 57. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

2. **Claims 12 – 14, 35, 41, and 49 are Allowable over *Sundar* in view of *Nurminen* and *Whelan***

Claims 12 – 14, 35, 41, and 49 stand rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*") and U.S. Patent Publication Number 2004/0003285 ("*Whelan*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Nurminen* and

Whelan fails to disclose, teach, or suggest all of the elements of claims 12 – 14, 35, 41, and 49. More specifically, dependent claims 12 – 14 are believed to be allowable for at least the reason that these claims depend from and include the elements of allowable independent claim 11. Dependent claim 35 is believed to be allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 26. Dependent claim 41 is believed to be allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 37. Dependent claim 49 is believed to be allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 42. *In re Fine, Minnesota Mining and Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

3. **Claims 16, 18 – 21, 23, 25, and 50 are Allowable over Sundar in view of Orler and Nurminen**

a. **Claim 16 is Allowable over Sundar in view of Orler and Nurminen**

Claim 16 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Publication Number 2003/0134650 ("*Orler*") and U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Orler* and *Nurminen* fails to disclose, teach, or suggest all of the elements of claim 16. More specifically, claim 16 recites:

A system for accessing a wireless network, comprising:
a wireless device; and
application logic operatively associated with the wireless device and adapted to automatically detect at least one wireless network within which the wireless device is located while the wireless device is on and in a transmit off mode, the application logic further configured to determine whether the at least one wireless network is on the list of requested wireless networks, ***the application logic further configured to, in response to a***

determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to a transmit on mode.

(Emphasis added).

Appellant respectfully submits that claim 16 is allowable over the cited art for at least the reason that *Sundar*, *Oler*, and *Nurminen*, taken alone or in combination, discloses, teaches, or suggests a "system for accessing a wireless network, comprising... **application logic further configured to, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to a transmit on mode**" as recited in claim 16. First, the Final Office Action admits that *Sundar* does not specifically teach a transmit off mode; and in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode" (OA page 3, line 19). Second, *Sundar* discloses "[a]s part of the beacon frame or the probe response, the AP sends a SSID... that identifies the AP 204. The mobile station 310 compares this SSID with a list of SSIDs... and if there is a match, infers that the WLAN 200 is a valid network for it to gain access" (page 4, paragraph [0058]). As illustrated in this passage, *Sundar* discloses that a comparison with a list is simply performed to determine that there is a valid network. There is no consequence of a positive result to this comparison. Consequently, there is no suggestion of "**application logic further configured to, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to a transmit on mode**" as recited in claim 16. Third, *Nurminen* discloses a "[p]ower management configuration [that] may be changed for the device based on its inferred context... This may include, for example, turn on or off its transmitter(s)" (page 7, paragraph [0109]). As illustrated in this passage,

Nurminen appears to disclose that power management may be changed based on an "inferred context." There is absolutely no suggestion that a wireless device is switched from the transmit off mode to a transmit on mode ***"in response to a determination that the at least one wireless network is on the list of requested wireless networks"*** as recited in claim 16.

Additionally, *Orler* fails to overcome the deficiencies of *Sundar* and *Nurminen*. More specifically, *Orler* discloses a "handset 104 [that] automatically registers with the cellular telephone network 111 when it is powered on... After registration, the handset 104 then turns off its transmitter, although it continues to monitor the selected control channel 120 for incoming calls" (column 9, line 6 – 27). As illustrated in this passage, *Orler* discloses that a cellular telephone can turn off and then monitor for incoming telephone calls. This however, is different than claim 16. First, *Orler* fails to disclose any scenario for turning on the cellular telephone, except through user interaction. Second, even if, for sake of argument, *Orler* suggests turning on the cellular telephone, this suggestion would be limited to scenarios that occur in response to detection of an incoming telephone call and for the purpose of answering the telephone call. For at least these reasons, claim 16 is allowable.

b. Claims 18 – 21, 23, 25, and 50 are Allowable over Sundar in view of Orler and Nurminen

Claims 18 – 21, 23, 25, and 50 stand rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Publication Number 2003/0134650 ("*Orler*") and U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Orler* and *Nurminen* fails to disclose, teach, or suggest all of the elements of claims 18 – 21, 23, 25, and 50.

More specifically, dependent claims 18 – 21, 23, and 25 are believed to be allowable for at least the reason that these claims depend from and include the elements of allowable independent claim 16. Dependent claim 50 is believed to be allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 42. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

4. Claim 24 is Allowable over Sundar in view of Orlor, Nurminen, and Whelan

Claim 24 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Publication Number 2003/0134650 ("*Orlor*"), U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"), and U.S. Patent Publication Number 2004/0003285 ("*Whelan*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Orlor*, *Nurminen*, and *Whelan* fails to disclose, teach, or suggest all of the elements of claim 24. More specifically, dependent claim 24 is believed to be allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 16. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

5. Claim 45 is Allowable over Sundar in view of Nurminen, and Krantz

Claim 24 stands rejected under 35 U.S.C. §103 for allegedly being unpatentable over U.S. Patent Publication Number 2003/0134650 ("*Sundar*") in view of U.S. Patent Application Publication Number 2005/0136837 ("*Nurminen*"), and .S. Patent Publication Number 2004/0153676 ("*Krantz*"). Appellant respectfully traverses this rejection for at least the reason that *Sundar* in view of *Nurminen*, and *Krantz* fails to disclose, teach, or

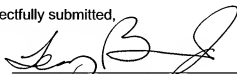
suggest all of the elements of claim 45. More specifically, dependent claim 45 is believed to be allowable for at least the reason that this claim depends from and includes the elements of allowable independent claim 42. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

VIII. Conclusion

In summary, it is Appellant's position that the pending claims are patentable over the applied cited art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow the pending claims.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read 'Anthony F. Bonner, Jr.', written over a horizontal line.

Anthony F. Bonner, Jr.
Registration No. 55,012

Claims Appendix under 37 C.F.R. § 41.37(c)(1)(viii)

The following are the claims that are involved in this Appeal.

1. A method for accessing a wireless network, comprising:
detecting at least one wireless network within which a wireless device is located while the wireless device is in a transmit off mode; and
determining whether the at least one wireless network is on a list of requested wireless networks;
determining whether the at least one wireless network is on the list of requested wireless networks; and
in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode.
2. The method of claim 1, wherein detecting comprises receiving at least one beacon frame from the at least one wireless network.
3. The method of claim 1, further comprising switching the wireless device to a transmit on mode and transmitting an access request to the at least one wireless network in response to determining that the at least one wireless network is on the list of requested wireless networks.
5. The method of claim 1, further comprising creating a scan list of wireless networks within which the wireless device is located.

6. The method of claim 5, wherein the scan list comprises an identifier of the at least one wireless network.

7. The method of claim 5, wherein the scan list comprises an identifier having a service set identifier (SSID).

8. The method of claim 5, the scan list comprising a set of attributes of the at least one wireless network.

9. The method of claim 1, wherein determining comprises comparing a set of attributes of a scan list associated with the at least one wireless network with a set of attributes in the list of requested wireless networks.

10. The method of claim 1, wherein determining whether the at least one wireless network is on the list of requested wireless networks comprises comparing a scan list associated with the list of requested wireless networks.

11. The method of claim 1, further comprising determining whether the at least one wireless network is a wireless network whose identifier is unknown.

12. The method of claim 11, further comprising switching the wireless device to a transmit on mode to identify the unknown wireless network.

13. The method of claim 11, further comprising transmitting at least one probe request frame to identify the unknown wireless network.

14. The method of claim 11, further comprising receiving a probe response frame from the unknown wireless network, the probe response frame having an identifier for identifying the unknown wireless network.

15. The method of claim 1, wherein detecting comprises detecting at least one wireless local area network within which the wireless device is located.

16. A method for accessing a wireless network, comprising:
automatically switching a wireless device to a transmit off mode in response to activation of the wireless device;

detecting at least one wireless network within which said wireless device is located while the wireless device is in the transmit off mode;

determining whether the at least one wireless network is on a list of requested wireless networks; and

in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode.

18. The method of claim 16, further comprising determining whether the at least one wireless network is a wireless network whose identifier is unknown.

19. The method of claim 16, wherein detecting comprises receiving at least one beacon frame from the at least one wireless network.

20. The method of claim 16, further comprising creating a scan list of wireless networks within which the wireless device is located.

21. The method of claim 16, further comprising comparing a list of requested wireless networks with a scan list of wireless networks within which the wireless device is located.

23. The method of claim 16, wherein detecting comprises detecting at least one wireless local area network within which said wireless device is located.

24. The method of claim 16, further comprising:
switching the wireless device to a transmit on mode in response to determining that the at least one wireless network is a wireless network whose identifier is unknown;
and
transmitting a probe request frame to the at least one wireless network to identify the at least one wireless network.

25. The method of claim 16, further comprising requesting access to the at least one wireless network in response to determining that the at least one wireless network is on a list of requested wireless networks.

26. A system for accessing a wireless network, comprising:
a wireless device; and
application logic operatively associated with the wireless device and adapted to:
switch the wireless device to a transmit off mode;
detect at least one wireless network within which the wireless device is located while in the transmit off mode;

determine whether the at least one wireless network is on a predetermined list of requested wireless networks; and

in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode.

27. The system of claim 26, wherein the application logic is adapted to determine whether the at least one wireless network is on the list of requested wireless networks.

29. The system of claim 26, wherein the application logic is adapted to switch the wireless device to the transmit on mode and transmit an access request to the at least one wireless network in response to determining that the at least one wireless network is on a list of requested wireless networks.

30. The system of claim 26, wherein the application logic is adapted to receive at least one beacon frame from the at least one wireless network.

31. The system of claim 26, wherein the application logic is adapted to create a scan list of wireless networks within which the wireless device is located.

32. The system of claim 31, the scan list comprising a set of attributes of the at least one wireless network.

33. The system of claim 26, wherein the application logic is adapted to compare a scan list associated with a list of requested wireless networks to a scan list

associated with the at least one wireless network to determine whether the at least one wireless network is on the list of requested wireless networks.

34. The system of claim 26, wherein the application logic is adapted to determine whether the at least one wireless network is a wireless network whose identifier is unknown.

35. The system of claim 26, wherein the application logic is adapted to switch the wireless device to a transmit on mode and transmit a probe request frame in response to determining that the at least one wireless network is a wireless network whose identifier is unknown.

36. The system of claim 26, wherein the application logic is adapted to detect at least one wireless local area network within which the wireless device is located while in the transmit off mode.

37. A system for accessing a wireless network, comprising:

- means for switching a wireless device to a transmit off mode;
- means for detecting at least one wireless network within which the wireless device is located while in the transmit off mode;
- means for determining whether the at least one wireless network is on a predetermined list of requested wireless networks; and
- means for, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode.

39. The system of claim 37, further comprising means for determining whether the at least one wireless network is on a list of requested wireless networks.

40. The system of claim 37, further comprising means for creating a scan list of wireless networks within which the wireless device is located.

41. The system of claim 37, further comprising means for switching the wireless device to a transmit on mode and transmitting a probe request frame in response to determining that the at least one wireless network is a wireless network whose identifier is unknown.

42. A system for accessing a wireless network, comprising:
a wireless device; and
application logic operatively associated with the wireless device, the application logic adapted to selectively switch the wireless device between a transmit on mode and a transmit off mode based on an identification of at least one wireless network, the application further configured to determine whether the at least one wireless network is on a list of requested wireless networks, the application logic further configured to, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to the transmit on mode.

43. The system of claim 42, wherein the at least one wireless network comprises an wireless local area network.

44. The system of claim 42, wherein the at least one wireless network comprises an infrastructure wireless network

45. The system of claim 42, wherein the at least one wireless network comprises an ad-hoc wireless network.

46. The system of claim 42, wherein the application logic is adapted to switch the wireless device to the transmit on mode if the at least one wireless network corresponds to a list of requested wireless networks.

47. The system of claim 42, wherein the application logic is adapted to create a scan list of wireless networks within which the wireless device is located.

48. The system of claim 47, wherein the application logic is adapted to switch the wireless device to the transmit on mode if at least one of the scan list wireless networks corresponds to a list of requested wireless networks.

49. The system of claim 42, wherein the application logic is adapted to switch the wireless device to the transmit on mode to transmit a probe request frame to identify at least one wireless network having an unknown identifier.

50. The system of claim 42, wherein the application logic is adapted to automatically switch the wireless device to the transmit off mode upon activation of the wireless device.

51. The system of claim 42, wherein the application logic is adapted to switch the wireless device to the transmit on mode to transmit an access request to an identified wireless network.

52. A method for accessing a wireless network, comprising:
automatically detecting at least one wireless network within which a wireless device is located while the wireless device is on and in a transmit off mode;
determining whether the at least one wireless network is on the list of requested wireless networks; and
in response to a determination that the at least one wireless network is on the list of requested wireless networks, switching the wireless device from the transmit off mode to a transmit on mode.

54. The method of claim 52, further comprising automatically switching the wireless device to a transmit on mode in response to identifying the at least one wireless network.

55. The method of claim 52, further comprising creating a scan list of wireless networks within which the wireless device is located.

56. The method of claim 52, further comprising determining whether the at least one wireless network is a wireless network whose identifier is unknown.

57. A system for accessing a wireless network, comprising:
a wireless device; and

application logic operatively associated with the wireless device and adapted to automatically detect at least one wireless network within which the wireless device is located while the wireless device is on and in a transmit off mode, the application logic further configured to determine whether the at least one wireless network is on the list of requested wireless networks, the application logic further configured to, in response to a determination that the at least one wireless network is on the list of requested wireless networks, switch the wireless device from the transmit off mode to a transmit on mode.

58. The system of claim 57, wherein the application logic is adapted to automatically determine whether the at least one wireless network is on a list of requested wireless networks.

59. The system of claim 57, wherein the application logic is adapted to automatically switch the wireless device to a transmit on mode in response to identifying the at least one wireless network.

60. The system of claim 57, wherein the application logic is adapted to create a scan list of wireless networks within which the wireless device is located.

Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)

(none)

Related Proceedings Appendix under 37 C.F.R. § 41.37(c)(1)(x)

(none)